

NEW HAMPSHIRE LAW LIBRARY

SEP 03 1998

CONCORD, N.H.

July 6, 1953

The Honorable Hugh Gregg
Governor of New Hampshire
Concord, New Hampshire

Dear Governor Gregg:

You have inquired as to your authority to open that part of the woodlands located within this state and which comprise the National Forests belonging to the United States. Please be advised that in my opinion this authority is in the Governor and Council by necessary implication.

R. L., c. 3, s. 7, provides that the state shall retain concurrent jurisdiction with the United States as to the White Mountain National Forest in both civil and criminal matters. This jurisdiction is further verified by the provisions of U.S.C.A., Title 16, s. 480, which (speaking of National Forests) provides that jurisdiction, both civil and criminal, over persons within National Forests is not affected by reason of their existence and that states shall not lose their jurisdiction by virtue of their creation.

Laws 1949, c. 70, amending R. L., c. 33, specifically provides that the Governor and Council may close the woods "... in any or all parts of the state for such time as they may designate". This broad forestry control provision further extends the proclamation powers under R. L., c. 241, s. 29, which refers to any or all of the woodlands of the state and deals with fish and game.

The power to close carries with it as a necessary corollary the power to reopen. The mere fact that your original proclamation did not (and obviously could not) designate a specific period of time for the closure does not operate to alter your power to reopen.

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Furthermore, it is not believed that federal officials could properly terminate your civil action in closing the woods within the National Forests, and therefore you are respectfully advised that it is up to you to say when these woods (as well as the rest of the woodlands in New Hampshire) shall be reopened, and not properly a function of federal officials.

Respectfully,

Louis C. Wyman
Attorney General

W/a